

AMENDED IN SENATE MAY 10, 2001

AMENDED IN SENATE APRIL 16, 2001

**SENATE BILL**

**No. 1158**

**Introduced by Senator Knight  
(Coauthor: Senator Alpert)**

February 23, 2001

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An act to amend Section 25201.14 of, *and to add Section 25201.16 to*, the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 1158, as amended, Knight. Hazardous waste: *universal waste aerosol cans can recycling*.

~~Under~~

(1) *Under existing law*, the Department of Toxic Substances Control is required to issue hazardous waste facilities permits to use and operate hazardous waste management units. Existing law exempts, from the hazardous waste facilities requirements, the puncturing, draining, or crushing of aerosol cans if specified requirements are met by the owner or operator conducting that activity, including that the equipment used is designed to capture the gaseous and liquid contents of the cans, prevent fire, explosion, and unauthorized releases of hazardous constituents, and prevent worker exposure to hazardous materials released from the cans, and is certified by the department. ~~Existing law requires the department to approve or deny an application for certification within 180 days from the date of the application is received.~~ *A violation of the hazardous waste control law is a crime.*

~~This bill would require the department to approve or deny an application for certification within 90 days from the date the application~~

~~is received, and would require the department to determine, within 30 days from the date the application is received, if the application is complete. The bill would also exempt, from the requirements that the equipment be certified by the department, a household hazardous waste collection facility, as defined, and a generator or permitted hazardous waste facility, if that generator or permitted hazardous waste facility punctures, drains, or crushes fewer than 50 aerosol cans per day.~~

*The bill would delete the puncturing, draining, or crushing of aerosol cans from that exemption from hazardous waste facilities requirements. This bill would define the term of “universal waste aerosol can” as a hazardous waste aerosol can while it is being managed in a specified manner. The bill would require a universal waste handler, as defined, to manage universal waste aerosol cans in a manner that prevents fire, explosion, and release of any unauthorized universal waste or component of a universal waste into the environment. The bill would require a universal waste handler to take specified actions to contain universal waste aerosol cans that show signs of leakage, and to accumulate universal waste aerosol cans in clearly marked, specifically designed containers, as specified. The bill would authorize a universal waste handler to remove and collect any contents of a universal waste aerosol can if the handler meets specified requirements, and would impose requirements on any contents of a universal waste aerosol can that exhibits a characteristic of hazardous waste. The bill would require a universal waste handler that processes universal waste aerosol cans to submit a specified notification to the Certified Unified Program Agency (CUPA) with jurisdiction over that universal waste handler, or to the agency authorized by the Secretary for Environmental Protection for that purpose. The bill would impose a state-mandated local program by creating new crimes regarding the management of universal waste aerosol cans.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~-yes.



*The people of the State of California do enact as follows:*

SECTION 1. Section 25201.14 of the Health and Safety Code is amended to read:

25201.14. (a) To the extent consistent with the federal act, the following activities are exempt from this article, including the requirements of obtaining a hazardous waste facilities permit or other grant of authorization from the department, if the activity is conducted at the site where the material was generated and the management of the waste meets the requirements of subdivisions (a) to (d), inclusive, of Section 25143.9 and subdivisions (b) and (c) of this section:

~~(1) Puncturing, draining, or crushing of aerosol cans, at ambient temperature, subject to both of the following:~~

~~(A) The equipment used is designed to capture the gaseous and liquid contents of the cans, prevent fire, explosion, and unauthorized releases of hazardous constituents, and prevent worker exposure to hazardous materials released from the cans, and is certified by the department for use in compliance with this section pursuant to Section 25200.1.5. The department shall approve or deny an application for certification of the equipment within 90 days from the date of receiving an application determined to be complete.~~

~~The department shall determine whether an application for certification is complete within 30 days from the date of receiving the application, and if the department has not made that determination after 30 days from the date of receiving the application, the application shall be deemed to be complete.~~

~~(B) For purposes of this division, aerosol can hazardous waste shall be deemed to be included in the definition of "universal waste," as set forth in Section 66273.9 of Title 22 of the California Code of Regulations.~~

~~(C) The aerosol cans are recycled as scrap metal.~~

~~(2)~~

(1) Except as provided in subdivision (b), the separation of used oil from water, if all other applicable laws and regulations are met, the used oil is properly transported to an authorized oil recycler, and the separation is accomplished by using one of the following methods:

(A) Gravity separation.

- 1 (B) A centrifuge.  
2 (C) Membrane technology.  
3 (D) Heating of the water containing the used oil to a  
4 temperature that is not more than 20 degrees Fahrenheit below the  
5 flashpoint of the used oil component of the mixture at atmospheric  
6 pressure.  
7 (E) The addition of demulsifiers to the water containing the  
8 used oil.  
9 ~~(3)~~  
10 (2) (A) The operation of a totally enclosed treatment unit or  
11 facility, as defined in Section 66260.10 of Title 22 of the California  
12 Code of Regulations, when authorized by regulations adopted by  
13 the department pursuant to subparagraph (B).  
14 (B) The department shall adopt regulations pursuant to Chapter  
15 3.5 (commencing with Section 11340) of Part 1 of Division 3 of  
16 Title 2 of the Government Code exempting this type of unit or  
17 facility from this article to the extent that the department  
18 determines that the exemption is consistent with the protection of  
19 public health, safety, and the environment.  
20 (b) For purposes of paragraph ~~(2)~~ (1) of subdivision (a), the  
21 separation of used oil from water does not include a method using  
22 any of the following:  
23 (1) Contaminated groundwater.  
24 (2) Water containing any measurable amount of gasoline or  
25 more than 2 percent of a combination of Number 1 or Number 2  
26 diesel fuel.  
27 (3) Used oil and water which contain other constituents that  
28 render the material hazardous under the regulations adopted  
29 pursuant to ~~Section~~ Sections 25140 and 25141.  
30 (c) A generator operating pursuant to ~~subdivision~~ subdivisions  
31 (a) shall meet all of the following conditions:  
32 (1) The generator complies with the conditions of subdivision  
33 (d) and (e) of Section 25201.5.  
34 (2) The generator submits a notification that is in compliance  
35 with paragraph (7) of subdivision (d) of Section 25201.5 on or  
36 before April 1, 1996, or if the generator is commencing the first  
37 treatment of waste pursuant to this section, not less than 60 days  
38 prior to the date of commencing treatment of that waste pursuant  
39 to this section. Upon demonstration of good cause by the  
40 generator, the department may allow a shorter time period than 60

1 days between notification and commencement of hazardous waste  
2 treatment pursuant to this section. The generator shall be in  
3 compliance with all other notification requirements of subdivision  
4 (d) of Section 25201.5.

5 (3) The generator maintains adequate records to demonstrate  
6 that the requirements and conditions of this section are met,  
7 including appropriate waste sampling and analysis records, to  
8 demonstrate that none of the water and used oil mixtures listed in  
9 subdivision (b) are treated pursuant to this section. All records  
10 required pursuant to this paragraph and subdivision (d) of Section  
11 25201.5 shall be maintained onsite for a period of at least three  
12 years.

13 (4) Except as provided in Section 25404.5, the generator  
14 submits a one-time fee in the amount of one hundred dollars (\$100)  
15 to the department as part of the notification required by paragraph  
16 (2), at the same time that notification is submitted, unless the  
17 generator is subject to a fee under a permit-by-rule or a grant of  
18 conditional authorization pursuant to Section 25200.3.

19 (5) (A) If the generator is conducting treatment pursuant to  
20 paragraph ~~(2)~~ (1) of subdivision (a), the generator complies with  
21 the phase I environmental assessment requirements of Section  
22 25200.14, except for subdivisions (d), (f), and (g) of Section  
23 25200.14. The generator shall not be required to comply with this  
24 subparagraph until the department completes an evaluation of the  
25 phase I environmental assessment requirement, pursuant to  
26 Section 25200.14.1, and until any revisions resulting from that  
27 evaluation are implemented by statute or regulation.

28 (B) A generator conducting treatment pursuant to paragraph  
29 (2) of subdivision (a) shall not be required to conduct any site  
30 investigations, beyond that required by subparagraph (A), or to  
31 initiate remediation activities until the department adopts  
32 regulations specifying the criteria and procedures for corrective  
33 action at non-RCRA facilities.

34 (C) This paragraph does not limit the authority of the  
35 department or a unified program agency approved pursuant to  
36 Section 25404.1; to issue an order pursuant to Section 25187.1 or  
37 to order corrective action pursuant to Section 25187.

38 *SEC. 2. Section 25201.16 is added to the Health and Safety*  
39 *Code, to read:*

1 25201.16. (a) For purposes of this section, the following  
2 terms have the following meanings:

3 (1) “Aerosol can” means a container in which gas under  
4 pressure is used to aerate and dispense any material through a  
5 valve in the form of a spray or foam.

6 (2) “Aerosol can processing” means the puncturing, draining,  
7 or crushing of aerosol cans.

8 (3) “CUPA” means a Certified Unified Program Agency, as  
9 defined in Section 25404.

10 (4) “Destination facility,” as used in Section 66273.9 of Title  
11 22 of the California Code of Regulations, also includes a facility  
12 that treats, except as described in subdivision (d), or disposes of,  
13 a hazardous waste aerosol can that is shipped to the facility as a  
14 universal waste aerosol can, except destination facility does not  
15 include a facility at which universal waste aerosol cans are merely  
16 accumulated.

17 (5) “Hazardous waste aerosol can” means an aerosol can that  
18 meets the definition of hazardous waste, as defined in Section  
19 25117.

20 (6) “Universal waste aerosol can” means a hazardous waste  
21 aerosol can while it is being managed in accordance with  
22 subdivision (d). Upon receipt of a universal waste aerosol can by  
23 a destination facility for purposes of treatment or disposal, the can  
24 is no longer a universal waste aerosol can, but is a hazardous  
25 waste aerosol can for the purposes of this section.

26 (7) “Universal waste handler,” means a person who generates  
27 a universal waste aerosol can or the owner or operator of a facility,  
28 including all contiguous property that receives universal waste  
29 aerosol cans from other universal waste handlers, accumulates  
30 universal waste aerosol cans, and sends universal waste aerosol  
31 cans to another universal waste handler, to a destination facility,  
32 or to a foreign destination. “Universal waste handler, does not  
33 include either of the following:

34 (A) A person who treats, except as described in subdivision (d),  
35 or disposes of hazardous waste aerosol cans including universal  
36 waste aerosol cans.

37 (B) A person engaged in off-site transportation of hazardous  
38 waste aerosol cans, including, but not limited to, universal waste  
39 aerosol cans, by air, rail, highway, or water, including a universal  
40 waste aerosol can transfer facility.

1     **(b) (1)** *The requirements of this section apply to any universal*  
2 *waste handler that manages aerosol cans, except for the following:*

3     **(A)** *Aerosol cans that are not yet wastes pursuant to Chapter 11*  
4 *(commencing with Section 66261.1) of Division 4.5 of Title 22 of*  
5 *the California Code of Regulations.*

6     **(B)** *Aerosol cans that do not exhibit a characteristic of a*  
7 *hazardous waste as set forth in Article 3 (commencing with Section*  
8 *66261.20) of Chapter 11 of Division 4.5 of Title 22 of the*  
9 *California Code of Regulations.*

10    **(2)** **(A)** *An aerosol can is a waste, for purposes of Section*  
11 *25124, on the date the aerosol can is discarded or is no longer*  
12 *useable. For purposes of this section, an aerosol can is deemed to*  
13 *be no longer useable when any of the following occurs:*

14     **(i)** *The can is as empty as possible, using standard practices.*

15     **(ii)** *The spray mechanism no longer operates as designed.*

16     **(iii)** *The propellant is spent.*

17     **(iv)** *The product is no longer used.*

18    **(B)** *An unused aerosol can is a waste, for purposes of Section*  
19 *25124, on the date the owner decides to discard it.*

20    **(c) (1)** *The disposal of any hazardous waste aerosol can is*  
21 *subject to the requirements of this chapter, and to any regulations*  
22 *adopted by the department relating to the disposal of hazardous*  
23 *waste.*

24    **(2)** *The treatment or storage, by any method not described in*  
25 *this section, of any hazardous waste aerosol can that is subject to*  
26 *the requirements of this chapter, and any regulations adopted by*  
27 *the department relating to the treatment and storage of hazardous*  
28 *waste.*

29    **(d)** *Notwithstanding this chapter, a hazardous waste aerosol*  
30 *can is a universal waste for the purposes of Section 66273.9 of Title*  
31 *22 of the California Code of Regulations, is managed in*  
32 *accordance with this section and shall be subject to Chapter 23*  
33 *(commencing with Section 66273.1) of Division 4.5 of Title 22 of*  
34 *the California Code of Regulations, and any successor*  
35 *regulations, if the aerosol can is managed in accordance with all*  
36 *of the following requirements:*

37     **(1)** *A generator of a hazardous waste aerosol can is not subject*  
38 *to the exemptions described in Sections 66273.8 and 66273.10,*  
39 *relating to households and conditionally exempt small quantity*  
40 *universal waste generators.*



1 (2) A universal waste handler shall manage universal waste  
2 aerosol cans in a manner that prevents fire, explosion, and the  
3 release of any unauthorized universal waste or component of a  
4 universal waste to the environment, including but not limited to,  
5 all of the following requirements:

6 (A) A universal waste handler shall immediately contain any  
7 universal waste aerosol can that shows evidence of leakage,  
8 spillage, or damage that could cause leakage under reasonably  
9 foreseeable conditions in a separate individual container. Each  
10 container shall be closed, structurally sound, compatible with the  
11 contents of the universal waste aerosol can, and may not  
12 demonstrate any characteristic or damage that may cause a leak  
13 or spill under reasonably foreseeable conditions, as determined by  
14 the department.

15 (B) A universal waste handler shall accumulate universal  
16 waste aerosol cans in clearly marked, specially designated  
17 accumulation containers. The accumulation containers shall be  
18 closed, structurally sound, compatible with the contents of the  
19 universal waste aerosol cans, and may not demonstrate any  
20 characteristic or damage that may cause a leak or spill under  
21 reasonably foreseeable conditions, as determined by the  
22 department. The universal waste aerosol cans shall be  
23 accumulated in a manner that is sorted by type and compatibility  
24 of contents to ensure that incompatible materials are segregated  
25 and managed appropriately. Flammable wastes shall be stored  
26 away from heat and open flames. Containers used to accumulate  
27 universal waste aerosol cans shall be placed on or above a  
28 nonearthen floor that is free of cracks or gaps and is sufficiently  
29 impervious and bermed to contain leaks and spills.

30 (C) A universal waste handler may process universal waste  
31 aerosol cans to remove and collect the contents of a universal  
32 waste aerosol can, if the handler meets all of the following  
33 requirements:

34 (i) Is not an offsite commercial processor of aerosol cans. For  
35 the purposes of this clause, a household hazardous waste  
36 collection facility, as defined in subdivision (f) of Section 25218.1,  
37 is not an offsite commercial processor.

38 (ii) Ensures that the universal waste aerosol can is processed  
39 in a manner designed to prevent fire, explosion, and the



1 *unauthorized release of any universal waste or component of*  
2 *universal waste to the environment.*

3 *(iii) Ensures that the unit used to process the universal waste*  
4 *aerosol cans is placed on or above a nonearthen floor that is free*  
5 *of cracks or gaps and is sufficiently impervious and bermed to*  
6 *contain leaks and spills.*

7 *(iv) Ensures that the processing operations are performed*  
8 *safely by developing and implementing a written operating*  
9 *procedure detailing the safe processing of universal waste aerosol*  
10 *cans. This procedure shall, at a minimum, include all of the*  
11 *following:*

12 *(I) The type of equipment to be used to process the universal*  
13 *waste aerosol cans safely.*

14 *(II) Operation and maintenance of the unit.*

15 *(III) Segregation of incompatible wastes.*

16 *(IV) Proper waste management practices, including ensuring*  
17 *that flammable wastes are stored away from heat and open flames.*

18 *(V) Waste characterization.*

19 *(v) Ensures that a spill clean-up kit is readily available to*  
20 *immediately clean up spills or leaks of the contents of the universal*  
21 *waste aerosol can which may occur during the can-processing*  
22 *operation.*

23 *(vi) Immediately transfers the contents of the universal waste*  
24 *aerosol can or processing device, if applicable, to a container that*  
25 *is managed in accordance with the applicable requirements of*  
26 *Section 66262.34 of Title 22 of the California Code of Regulations.*

27 *(vii) Ensures that the area in which the universal waste aerosol*  
28 *cans are processed is well ventilated.*

29 *(viii) Ensures, through a training program utilizing the written*  
30 *operating procedures developed pursuant to clause (iv), that each*  
31 *employee is thoroughly familiar with the procedure for sorting and*  
32 *processing universal waste aerosol cans, and proper waste*  
33 *handling and emergency procedures relevant to his or her*  
34 *responsibilities during normal facility operations and*  
35 *emergencies.*

36 *(D) A universal waste handler who processes universal waste*  
37 *aerosol cans to remove the contents of the aerosol can, or who*  
38 *generates other waste as a result of the processing of aerosol cans,*  
39 *shall determine whether the contents of the universal waste aerosol*  
40 *can, residues, or other wastes exhibit a characteristic of hazardous*

1 waste identified in Article 3 (commencing with Section 66261.20)  
2 of Chapter 11 of Division 4.5 of Title 22 of the California Code of  
3 Regulations.

4 (i) If the contents of the universal waste aerosol can, residues,  
5 or other wastes exhibit a characteristic of hazardous waste, those  
6 contents shall be managed in compliance with all applicable  
7 requirements of this chapter and the regulations adopted by the  
8 department pursuant to this chapter. The universal waste handler  
9 shall be deemed the generator of that hazardous waste and is  
10 subject to the requirements of Chapter 12 (commencing with  
11 Section 66262.10) of Division 4.5 of Title 22 of the California Code  
12 of Regulations.

13 (ii) If the contents of the universal waste aerosol can, residues,  
14 or other wastes are not hazardous, the universal waste handler  
15 shall manage those contents in a manner that is in compliance with  
16 all applicable existing federal, state, and local regulations.

17 (E) (i) A universal waste handler that processes universal  
18 waste aerosol cans shall, no later than the date on which the  
19 handler first initiates this activity, submit a notification, in person  
20 or by certified mail, with return receipt requested, to either of the  
21 following:

22 (I) The CUPA, if the facility is under the jurisdiction of a CUPA.

23 (II) If the facility is not under the jurisdiction of a CUPA, the  
24 notification shall be submitted to the agency authorized, pursuant  
25 to subdivision (f) of Section 25404.3, to implement and enforce the  
26 requirements of this chapter listed in paragraph (1) of subdivision  
27 (c) of Section 25404.

28 (ii) Each notification submitted pursuant to this subparagraph  
29 shall be completed, dated, and signed according to the  
30 requirements of Section 66270.11 of Title 22 of the California Code  
31 of Regulations, and shall include, but not be limited to, all of the  
32 following information:

33 (I) The name, identification number, site address, mailing  
34 address, and telephone number of the handler.

35 (II) A description of the universal waste aerosol can processing  
36 activities, including the type and estimated volumes or quantities  
37 of universal waste aerosol cans to be processed monthly, the  
38 treatment process or processes, equipment descriptions, and  
39 design capacities.

*(III) A description of the characteristics and management of any hazardous treatment residuals.*

*(iii) Within 30 days of any change in operation which necessitates modifying any of the information submitted in the notification required pursuant to this subparagraph, the handler shall submit an amended notification, in person or by certified mail, with return receipt requested, to either of the following:*

*(I) The CUPA, if the facility is under the jurisdiction of a CUPA.*

*(II) If the facility is not under the jurisdiction of a CUPA, the notification shall be submitted to the agency authorized, pursuant to subdivision (f) of Section 25404.3, to implement and enforce the requirements of this chapter listed in paragraph (1) of subdivision (c) of Section 25404.*

*(iv) Each amended notification shall be completed, dated, and signed in accordance with the requirements of Section 66270.11 of Title 22 of the California Code of Regulations, as those requirements apply to hazardous waste facilities permit applications.*

*(3) A universal waste aerosol can, or a container in which universal waste aerosol cans are contained, shall be labeled or marked clearly with one of the following phrases, as applicable:*

*(A) "Universal Waste-Aerosol Cans."*

*(B) "Waste Aerosol Cans."*

*(C) "Used Aerosol Cans."*

*(4) In addition to the requirements set forth in Article 4 (commencing with Section 66273.50) of Chapter 23 of Division 4.5 of Title 22 of the California Code of Regulations, a transporter of universal waste aerosol cans shall transport and otherwise manage universal waste aerosol cans in a manner that prevents fire, explosion, and release of any universal waste, or component of a universal waste, into the environment. These requirements shall include, but shall not be limited to, all of the following, which apply during transportation and storage at a transfer facility:*

*(A) Universal waste aerosol cans shall be transported and stored in specially designated accumulation containers that are clearly marked for that use. The containers shall be closed, structurally sound, compatible with the contents of the universal waste aerosol cans, and shall not demonstrate any characteristic or damage that may cause a leak or spill under reasonably foreseeable conditions, as determined by the department.*

1 (B) Incompatible materials shall be kept segregated and  
2 managed appropriately in separate containers.

3 (C) Flammable wastes shall be kept a safe distance from heat  
4 and open flames.

5 (D) During storage at a universal waste transfer facility,  
6 containers used to accumulate universal waste aerosol cans shall  
7 be placed on or above a nonearthen floor that is free of cracks or  
8 gaps, and that is sufficiently impervious and bermed to contain  
9 leaks and spills. The owner or operator of a destination facility  
10 that treats, except as described in subdivision (d), or disposes of  
11 any hazardous waste aerosol can, including, but not limited to, a  
12 universal waste aerosol can, is subject to all applicable  
13 requirements of this chapter and the regulations adopted pursuant  
14 to this chapter. Upon receipt of a universal waste aerosol can by  
15 a destination facility for purposes of treatment or disposal, the can  
16 is no longer a universal waste aerosol can, but is a hazardous  
17 waste aerosol can for the purposes of this chapter.

18 (f) The department may adopt regulations specifying any  
19 additional requirement or limitation on the management of  
20 hazardous waste aerosol cans that the department determines is  
21 necessary to protect human health or safety or the environment.

22 (g) The development and publication of the notification form  
23 specified in subparagraph (E) of paragraph (2) of subdivision (d)  
24 is not subject to the requirements described in Chapter 3.5  
25 (commencing with Section 11340) of Part I of Division 3 of Title  
26 2 of the Government Code.

27 (h) In addition to the requirements set forth in this article, a  
28 hazardous waste aerosol cans shall be managed in a manner that  
29 meets all requirements established by the United States  
30 Environmental Protection Agency.